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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,138	07/14/2003	Mark A. Poland	494	8464

28782 7590 04/16/2004

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EXAMINER

PRICE, RICHARD THOMAS JR

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 04/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/620,138

Applicant(s)

MARK A. POLAND

Examiner

Thomas Price

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kadletz et al '439 in view of Williams '931.

Kadletz teaches a fish skinning and scaling device which is structurally similar to the Applicant's claimed shelling tool. More specifically, the shelling tool having a handle B4 and an elongate rod (A6 and D) extending away from the handle, a longitudinal slit is formed between a' and d' that extends inwardly from a distal end thereof. The slit defines an upper rod fork and a lower rod fork of said elongate rod. The slit of Kadletz et al forms a knife for slitting the skin of a fish. However, Kadletz et al do not discuss using the device for shelling a crustacean to permit removal of meat from a tail shell thereof. Williams teaches a hand operated crab leg opener with multiangled blade and a method thereof. Specifically, Williams teaches removing or separating a head/body portion of a crustacean from the tail shell, and sliding a upper and lower rod fork into an open end of said tail shell along an inside surface of an underside of said tail shell. The tool can further be rotated about a longitudinal axis thereof to produce a crack in said underside of said tail shell. Regarding claim 9, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the device of Kadletz

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et al in such a way, in view of the teachings of Williams, in order to obtain meat from a crustacean. As for claim 10, the combination of Kadletz as modified by Williams, teaches rotating the device to produce a crack in the shell of the crustacean, although does not mention the specific angle. The Examiner believes that one of ordinary skill in the art at the time the invention was made would rotate the hand tool thru a variety of angles including 90 degrees, depending on the stiffness or rigidity of the shell and the desired crack to obtain the meat in the shell. In regards to claim 12, the tool includes a tether b and a finger ring A5. Regarding claims 14 and 15, the combination of Kadletz et al as modified by Williams teaches using the device on a lobster or crawfish, additionally, both are considered to be structurally equivalent.

Conclusion

Summary: Claims 1-8 are directed to a non-elected invention, while claims 9-15 have been rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Price whose telephone number is 703-308-2694. The examiner can normally be reached on Monday through Friday from 8:30a.m. to 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas Price

Primary Examiner GAU: 3643

rtp